Supreme Court, U.S.
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No. 101082

In The

SUPREME COURT OF THE UNITED STATES

JEWEL D. HILL

Petitioner,

v.

NATIONWIDE MUTUAL INSURANCE COMPANY, AND THEIR AGENTS, REPRESENTATIVES, AND ATTORNEYS, NISAA N. MUWWAKKIL, LASHAWN REID, AND "ET AL"

Respondents,

On Petition for Writ of Certiorari

to the Supreme Court of Virginia

PETITION FOR A WRIT OF CERTIORARI

JEWEL DENISE HILL

551 LOCK LANE

PETERSBURG, VIRGINIA 23805

804-861-6318

Petitioner, Pro Se of Record

QUESTIONS PRESENTED FOR REVIEW

1. Does the fact that the petitioner, Pro Se, having a medical background, excludes her from the Constitutional rights Afforded all other Americans of Freedom of Speech, Due Process, rights to a **Fair** Jury Trial, Ban on Slavery (citizenship) and the right to fair compensation for the permanent injuries Suffered?

2. Does the petitioner, Ms. Hill have a right to be protected by the United States Constitutional Articles 42 § 1981, § 1983, and §1985, the Virginia Constitution Articles I §11, and §12, and the Federal and State Business Record Rules?

3. Do the **COURTS** in civil cases, have a mandate to rule with their eyes half shut and only apply fair compensation, along with an ends to justice to remittiturs, when it is clearly documented that egregious bad faith conduct has occurred manifesting that Justice, the Constitutions, Statutes, and Case laws have been Raped (to violate something) by the Respondents?

4. Is Additurs Unconstitutional when the jury has been prejudiced, by the exclusions of All petitioner's Germane witnesses and information, bias Jury Instructions, bias jury foreman with an inadmissible black book In the deliberation room, and or to avoid setting

Precedence of a Long Standing Practice?

5. Is justice in civil cases only for those who can financially buy or pay for it?

ALL PARTIES

JEWEL DENISE HILL is the petitioner, pro se, who has an interest in this Case. She suffered catastrophic permanent injuries as a result of This accident.

Nationwide Mutual Insurance Company, whose main headquarters is in Ohio, in addition to parties, agents, representatives and attorneys who answered for Nisaa Muwwakkil in the First set of Defendant's Interrogatories, Thus; Giving Fraudulent Answers, which caused the plaintiff great Distress and irreparable harm.

Mr. Cliff Lacks is the alleged claims Representative who was substituted for Mr. Charles Dobbins thus; plaintiff has graciously excluded Mr. Dobbins.

Ms. Nisaa Muwwakkil, the respondent who was driving the car.

Ms. Lashawn Reid the insured person of the Type three vehicle, the respondent was driving.

Mr. Alex Courtney Master Claims Representative that Documented petitioner as the injured party the First week of the accident.

If Craig's law does apply, whatever law enforcement that was Pursuing Ms. Muwwakkil. She was arrested at the scene. Perhaps after the summons and subpoena's, the Supreme Court may Get the suppressed answers, that the pro se, plaintiff was obstructed from getting. The Truth will prevail.

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The Final Order Rendered on November 19, 2010 is an Unpublished Order That States:

Upon a Petition for Rehearing

"On consideration of the petition of the appellant to set aside the judgment rendered herein on the 29th day of September, 2010 and grant a rehearing thereof, the prayer of the said petition is denied.

Upon further consideration whereof, the appellant's Motion to supplement the petition for rehearing is denied."

The Order Rendered on September 29, 2010 is an Unpublished Order that States:

"Upon review of the record the case and consideration Of the argument submitted in support of the granting of an appeal, The Court is of the opinion there is no reversible error in the judgment Complained of . Accordingly, the court refuses the petition for appeal."

The Order Rendered on June 8, 2010 is an Unpublished Order that States

"This case having been transferred from the Court Of Appeals of Virginia, the appellant shall have 30 days from the date of this order to file a petition for appeal in the Supreme Court of Virginia".

JURISDICTION

The Notice of Appeal was filed on April 29, 2010 in the Virginia Court of Appeals In relation to the Final Judgment Order dated April 1, 2010 of the Petersburg Circuit Court.

The Notice of Appeal was transferred to the Virginia Supreme Court on June 8, 2010.

The petition for appeal was filed by petitioner on June 29th, 2010 From the final Judgment Order of the Petersburg Circuit Court. The Petition alleged Violations of the petitioner's:

U. S.C. Amendment I Freedom of (Protected) Speech by the Circuit Court of Petersburg ruling that the petitioner could not use ANY medical terms violated petitioner's civil rights.

U.S.C. Amendment VII "The Right to a Jury Trial was substantially Restricted to the petitioner. The Trier's of fact where not allowed to hear any Medical information from The Custodians of Records as afforded by the Federal and State Business Records, neither other sources, nor the plaintiff pro se, or any other person. U.S.C. Amendment XIII Rights were violated. The Violations of the Civil Rights and equal protection of the law were not afforded and did deny the petitioner her rights afforded by the Virginia and United States Constitutions. Thus, the Virginia Constitutional Article I §1, §3, § 9, § 11, and §12, and 42 U.S.C Article § 1981, § 1983, § 1985 were violated. U.S.C. Amendment XIV of Due Process was severely violated and an abuse of discretionary power

allegedly violated the petitioner's Rights to Equal protection under the law; secondary to obstruction of germane evidence. This was evidenced by the Defense requesting, and the Circuit Court of Petersburg allowing the exclusion of all Plaintiff's experts, All lay plaintiff's witnesses except one, with Stipulations that would not allow pro se to ask germane questions in relation to job duties because those were medical duties. Several Custodians of records were excluded a week before trial and the Other three were excluded at trial and called Experts which is in Direct conflict to the Federal, State, and case laws.

The admission of the Respondent's Clearly Fraudulent, Erroneous Poster Misrepresenting the petitioner's injuries to be Nationwide Mutual's Low amount of $10,000. Which the Jurors requested in the deliberation room, Therefore; it Caused irreparable harm and injury in addition to violating the Pre-Trial Order.

The Jury Instructions and Jury Foreman's Conduct with a Black book in the Deliberation Room which had not been admitted into Evidence. Asking Leave of Court during the Rehearing consideration was Requested because New information had become available concerning The Jury foreman's relationship to Insurance Executives in the City Of Petersburg, specifically the Chamber of Commerce. Of which, founded The Petersburg Historic Foundation, of which this Jury Foreman was The President of at the time of this Trial.

The petition for a writ of Certiorari is

requested from a Final order Of The Supreme Court of Virginia issued on November 19, 2010. In that Order was no mention of the suggestion of a De Novo Review; or Rehearing With the Court sitting Enbanc secondary to the order setting Precedence in this case that would violate the Constitution, Statutes, and Case Laws of the State of Virginia and the Constitution of the United States of America.

Thus, the petitioner requests this Court to Review the opinion of the Virginia Supreme Court Secondary to:

The Jurisdiction of this Court is invoked under 28 U.S.C. § 1257 and 28 U.S.C. §1331, where jurisdiction arises under the Constitution of the United States. This case present Federal Questions concerning the Civil pro se's Legal Litigant's Civil Rights that are afforded her by her American and Virginian Citizenship.

CONSTITUTIONAL PROVISIONS, STATUTES, AND POLICIES AT ISSUE

First Amendment to the United States Constitution

"Congress shall make no law abridging the freedom of Speech"

Seventh Amendment To The United States Constitution, "Right to a Jury Trial" Annotation **p.3**

Appeals From State Courts to the Supreme Court

"The clause of the Amendment prohibiting the re-examination of Any fact found by a jury is not

restricted in its application to suits at common law tried before juries in courts in the United States. It applies equally to a case tried before a jury in a state court and brought to the Supreme Court of Appeals" in The Justices v. Murray,76 U.S. (9 Wall,)274,278 ; Chicago, B. & Q. R.R. v. City of Chicago, 166 U. S. 26, 242-46 (1897)

" Note, however , the Court has frequently indicated in cases involving a claim of a denial of constitutional rights it is free to examine and review the evidence upon which lower court conclusions are based, a position that under some circumstances could conflict with principle of jury autonomy", according to Time, Inc.v.Pape, 401 U.S 279-92 (1971) and enclosed cases within.

Thirteenth Amendment To The United States Constitution

"Ban on Slavery", states:

"Neither slavery nor involuntary servitude, Except as a punishment for crime whereof the party shall have Been duly convicted, shall exist within the United States, or any place subject to this jurisdiction."

Fourteenth Amendment To The United States

Constitution "Due Process" Section 1.

"All persons born or naturalization in the United States and subject to the jurisdiction thereof, are Citizens of the United States and of the State wherein they reside. NO STATE shall make or enforce any law which shall abridge the Privileges or

immunities of citizens of the United States; nor Shall any State deprive any person of life, liberty, or property, Without due process; nor deny to any person within the Jurisdiction the equal protection of the laws. "

United States Constitution Art. 42 § 1981

"All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, Give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is Enjoyed by white Citizens". They shall also have "The rights protected by this section that are protected against impairment by nongovernmental discrimination and impairment under color of State Law."

U.S.C. Constitution Art. 42 §1983

"Every person who, under the color of any statute, ordinance, Regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and Laws shall be liable to the party injured in an action at law, suit in Equity, or other proper proceeding for redress".

United States Constitution Art. 42 §1985 (2)

"Obstructing justice; intimidating party, witness, or juror, If two or more persons in any

State or Territory conspire to Deter, by force, intimidation, or threat, any party or witness in Any court of the United States from attending such court, or from Testifying to any matter pending therein, freely, fully, and truthfully, Or to injure a party or witness in his person or property on account of his having testified, or to influence a verdict.

" Or if two or more persons conspire for the purpose of Impending, hindering, obstructing, or defeating, in any manner, Deny to any citizen the equal protection of the laws, or to injure Enforce, the right of any person, or class of persons, to the EQUAL PROTECTION OF THE LAWS.

Virginia Constitution Art. I §11

"That no person shall be deprived of his life, liberty, or Loss of property without due process. The right to be free from any governmental discrimination. Upon the bases of race, or color."

Virginia Constitution Art. I § 12

"That the freedom of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments; that any citizen may freely speak,"

United States Federal Rule 60 (b) (1), (2), (3)

"allows a plaintiff relief on the basis of some mistake "(such as An error in calculations), inadvertence or excusable neglect", "newly discovered evidence, or on the Basis of fraud."

Virginia Code Annotated§8.01-418

"A plea of guilty or nolo contendere To a crime is admissible in Evidence as an Admission in a civil case Arising out of the same facts".

Virginia Code § 11:23

"If the interrogatories are served on an individual party, Interrogatory must be answered by the individual." See APPENDIX E.

Virginia Supreme Court Rule 4:1(b) (4) (A) (i)

"A party may request by interrogatory that opposing party identify Each person that the party expects to call as an expert witness at trial. Additionally the interrogatory may request the opposing party state The subject matter on which the expert is expected to testify, the Substance of. The facts and opinions to which the expert is to testify, and a summary of grounds for each opinion."

Virginia Supreme Court Rule 4:8 (d), states:

"Each Interrogatory shall be signed by the person making them".

Virginia Supreme Court Rule 4: 1 (b) (4)

"does not apply To an expert who acquired information as an "actor or viewer" Such an expert would be treated as an ordinary witness

Virginia Supreme Court Rule 4:1 (c) (8)

"The Protections of Parties From Fraud and

the prevention of one party Acquiring an unfair advantage if it learned the opponent's position Before it was required to announce its own."

Virginia Code 21:22 Obstructive Tactics

"**A lawyer shall not "(a) Obstruct another party's access to evidence or alter or destroy or conceal a document or material having potential evidentiary value for the purpose of obstructing a parties Access to evidence. A lawyer shall not counsel or assist another person to do any such act. (c) Falsify evidence, counsel or assist a witness to testify falsely."**

Virginia Code §21:1 — § 21:13 Any Real or Demonstrative

"Evidence" " Those items which are proper for use in the courtroom To serve as a visual aid to the jury in comprehending the verbal testimony of a witness", according to the Virginia Practice Trial Handbook for Virginia lawyers 2009 edition page 309. **Petitioner was denied that right, she was not allowed to use** but one of her visual aids.

Virginia Code § 26:13 Disabilities:

"a lay person who has observed the apparent physical condition of another may testify to Physical disabilities, but not the latent conditions or particular disease". The defense proposed order denied petitioner that right.

Virginia Code §28:7 Business Records

"The business Record exception to the hearsay rule allows for The admission of records kept in the ordinary course of business".

According to the Virginia Trial Handbook.

Virginia Code § 36:12 Past and Future Medical Expenses

"a defendant is responsible for a petitioner's medical Expenses (assuming liability) if the expenses are proven to be Authentic (2) reasonable in Amount (3) medically necessary, and (4) rendered Necessary by medical condition proximately resulting from the negligence."

Virginia Code "Unfair Claims Practice Act" § 38.2-510 (6), (7), (8):

"Failing to promptly settle claims where liability has become reasonably clear, under one portion of the Insurance **policy Coverage** in order to influence settlements under other portions of the insurance policy coverage." **See APPENDIX E.**

Virginia Code 38:1 Jury Instructions

"The purpose of jury instructions is to fully and fairly inform the Jury as to the law as it relates to the particular Facts of the case."

Virginia Code 38:6 Each Party is Entitled to Instruction on Own Theory of Case"

"In both civil and criminal cases each party is

entitled to instructions which present the law relating to his or her theory of the case. Every party has the right to have the law applicable to the case stated fairly, clearly, distinctly, and conveyed to the jury with substantial accuracy so that it may not mislead to the prejudice of the party."

Virginia Code §39:6 "Unauthorized Experiment or Views, Outside Source of Information".

"Where there is an unauthorized view, only slight prejudice needs to Be shown to warrant a new trial."

Virginia Code §39:8 "What Jury May Take To Room"

"The **jury has no right to take out and examine any object or paper not admitted into evidence," Brittle v. Commonwealth, 222 V 518, 281 S.E. 2d. 889 (1981)".**

Virginia Code § 42:12 Additurs and Remittiturs.

"The Code authorizes a trial judge, in cases where damages are Excessive or inadequate as a matter of law, to require the plaintiff to accept less or the defendant to pay more, or undergo a new trial."

Leo Virginia 743 (1985) and Congruent with Virginia Code §21:21

"At the most basic level, it is clearly unethical for a lawyer who has executed answers to interrogatories and represented to opposing counsel that those answers may be treated as if they were

signed under oath by the lawyer's client in those interrogatories, answer that are false."

OTHER AUTHORITIES

Am. Jur. 2d Damages §1006

"Pain and Suffering"

"Past and future pain and suffering are elements of damages in personal injury cases. A charge as to future Pain and suffering is authorized where there is testimony that the Plaintiff has been injured and at the time of the trial is still suffering from such injuries"

Nesson, Incentive to Spoliate Evidence in Civil Litigation: The Need for Vigorous Judicial Action, 13 Cardozo L. Rev. 793 **795 (1991)**

"Spoliation goes undetected and unpunished because Spoliation is by nature, invisible. The innocent party cannot Detect what it does not know exists." Congruent with Va. Code 19.1.

STATEMENT OF THE CASE

A. The Facts Giving Rise To This Case

This was a motor vehicle tort case where Ms. Hill was operating her vehicle in a northerly direction and she had been stopped. Awaiting the second car in front of her to make a left hand turn.

Notwithstanding her said duty of reasonable care, Ms. Muwwakkil at that said time recklessly and negligently, and not Until the day of trial, in the presence of the jury when Mr. Wiggins (The gentleman who was stopped in front of Ms. Hill), was there, would The defense admit to the court that the defendant was liable for operating her vehicle as to cause a rear end collision to occur. It is a sad case scenario when the defense will lie to a judge for almost a year but will tell the truth when an eye witness to the accident is in the court room.

The defense willfully, maliciously, fraudulently and egregiously Stated prior to trial that the plaintiff stopped suddenly, thus; misrepresenting the true facts that occurred at the accident scene. They stated in writing that they would only admit to liability if the Plaintiff agreed to a bench trial. Thus trying to coerce the plaintiff to Give up her rights to a jury trial as she had requested. The jury Still did not get to hear germane evidence nor was any medical evidence Allowed to be heard by the true triers of fact. The plaintiff's rights Pre-trial were violated in relation to evidence, experts, and lay witnesses, at trial her First amendment right to use medical terms was violated. The defense requested that the Plaintiff not be allowed to Use any medical terms and the judge granted the request thus the Protected Speech of the plaintiff was proscribed during the entire Trial. The right's to a Jury Trial with a sacrosanct verdict, A Ban On Slavery, and Due Process was violated.

B. The Virginia Supreme Court of Appeals Proceedings are Seen in Appendix A

REASONS WHY CERTIORARI SHOULD BE GRANTED

I. Review Is Warranted Because the Opinion of the Panel Consisting of Chief Justice Elect Kinser, Justice Carrico, And Justice Lemons Is In Conflict with the Virginia Supreme Court Sitting Enbanc, As Well As The Reversals And Remands Of The Opinions Of This Court.

The panel of the Virginia Supreme Court in the State of Virginia Defines no reversible error as the Virginia Constitutional violations Of freedom of Speech, Due Process and equal protection under the law Evidenced by not affording petitioner the rights to the Virginia Article I §1 , §3, §9, § 11 (Due Process). See Virginia Code 17.01-308 "Court Sitting Enbanc".

According the Virginia Supreme Court Ruling in (a criminal case) and I will Quote:

"Noting that [t]he First Amendment generally prevents government from proscribing speech expressed, "the Court observed that [content] based regulations are presumptively invalid. Id. At382, 112 S. Ct.2538 (citation omitted). Exceptions to the rule include: Obscenity (e.g. Roth v. United States, 354U.S. 476, 77 S. Ct. 1304, I L.E. d 2d 1498 (1957) defamation (e.g. Chaplinsky v. New Hampshire, 315 U.S. 568, 62 S. CT 766, 86 L. Ed. 1031 (1942). But Simply because particular categories of speech may be regulated Does not mean that such regulations may selectively discriminate On the basis of Content. As the Court R.A.V. stated:

And just as the power to proscribe particular speech on the basis Of a non content element (e.g. noise) does not entail the power to Proscribe the same speech on the basis of a content element (e.g. Obscenity) does not entail the power to proscribe it on the basis Of other content elements. R.A.V., 505 U. U.S. at 386, 112 S. Ct. 2538."

The restriction of the petitioner by the ruling of the trial Court Did not allow Ms. Hill to us **ANY MEDICAL TERMS ,** it should focus On the fact that the ruling was directed at the content of the Protected Speech or at a legitimate area of government concern. Medical Terms does not fall into any categories of speech that are Regulated. Do the Courts only protect the Rights of Criminals In relation to protected speech or does it have a duty to protect the rights Of All Americans? How can Corporate (Nationwide Mutual Insurance Company) Rights super-sede state written laws and The United States and Virginia's Constitution? These Civil rights were violated in front of her family, friends, and in the public view. Ms. Hill is a Virginian and an American. Will this discriminatory act be allowed to stand, as if to applaud the Violators, from the **ABSOLUTE HIGHEST JUDICIAL BENCH IN AMERICA**. ?

"The Virginia Business Record Rule, Virginia Code §28:7 For admission of records kept in the ordinary course of business. An expanded version of the business records exception is found in revised Virginia Code Annotated § 8.01- 391 (D), which provides that Were (1) records made, or documents

received and transmitted, (2) by a business profession in the regular course of business and (3) Again in the regular course of business a copy is as admissible as the original provided (5) the custodian of the record and the person to whom the custodian reports, if different, authenticates the copy and (6) certify That they have custody."

" A business record may be admissible under the "shopbook" Rule or business records exception, even though not identified and authenticated by the custodian or custodian Supervisor where the person who offers them has access to original records, and can establish their authenticity as original business records or true copies there of Sparks v. Commonwealth, 24Va. App.279,482 S.E. 2d. 69 (1997)."

"A business record must be identified and authenticated as such by a witness qualified to do so. The witness need not be the person who made the entries; some person whom custody of the records is entrusted may identify and authenticate them" Thus, the requirements had been met. They were business Records and the entries were made in the ordinary and regular Course of business. These Records were identified and the Custodians of Records were present and authenticated as such. The custodians are qualified witnesses according to the Law. This Court cannot allow a change in the law that discriminates against an Afro-American multi-system injured nurse. According to the Virginia Supreme Court and I will Quote:

"Furthermore, in McDowell v. Commonwealth,

273 Va.431, and 641 S.E. 2d 507 (2007), this Court stated as follows:

"As a recognized exception to the hearsay rule, [this Court has] Adopted the modern Shopbook Rule, allowing in given cases the admission into evidence of regular verified regular entries without requiring proof from the original observers or record keepers. In many cases, practical necessity requires the admission Of written factual evidence based on considerations other than the Personal knowledge of the recorder, provided there is a circumstantial Guarantee of trustworthiness or reliability of the records are relied Upon in the transaction of business by the person or entities for which They are kept, and they are kept in the ordinary course of business made contemporaneously with the event by persons having the duty to keep a true record. The final test is whether the document sought to be introduced are the type of records which are relied upon by those whom they are prepared. Id. At 434-35,641 S.E. 2d. at 509 (citations and internal quotation marks omitted).

"The business record exception has been recognized by the Legislature of the courts. SeeRankins, 31 Va. App. at 361n.5, 523 S.E. 2d at 528n.5 (citing Lilly, 527 U.S. at 133-34,119 S.Ct at 1988-99. The business records exception to the hearsay rule has been a part of Virginia law since the Virginia Supreme Court's decision in French, 121 Va.383, 93 S.E.585. Virginia's appellate courts have applied the business records exception repeatedly since that time. See e.g. White Sewing Mach.

Co v. Gilmore Furniture Co., 128 Va. 630, 645-47, 105 S.E. 134,139-40 (1920); E. I. Du Point De Nemours &Co. v. Universal Moulded Prods. Corp., 191 Va. 525, 567-68, 62 S.E.2d 233, 252-53 (1950) (citing French and referring to rule as "modern Shopbook Rule") Dalton v. Johnson, 204 Va. 102, 104-06, 129 S.E. 2d 647, 648-50 (1963); Neely v. Johnson, 215 Va. 565, 570-72, 211 S.E. 2d 100, 105-06 (1975)" according to www.rominger legal.com/va_caselaw.

"As the United States Supreme Court has Recognized , where [p]roperly administered, the business ...records exception would Seem to be among the safest of the hearsay exceptions as the danger of inaccurate memory or narration on the part of the witness is virtually Removed" , according to rominger legal."

"Confrontation Guarantee and related problems, 30 La L. Rev. 651, 668 (1970). We hold the business records exception to Virginia expressly permits the introduction of certain portions of medical records under the business records exception to it hearsay rule. See Dalton, 204 Va at 104-06, 129 S.E.2d at 648-50 (admitting hospital Records exception to its hearsay rule According to www". Rominger legal. Petitioner's trial was five years and six months after the motor vehicle accident, and the first year of treatment and injuries at issue were clearly documented, by MD's multisystem diagnoses are in those medical records. The Defense obstructed those records from the Triers of fact per the Defense's request by calling the Custodian of Records at trial experts. The Defense even withdrew their own

alleged Witnesses. The EMS and the ER, when the Defense attorney was confronted concerning an altered radiology report. The Authentication of these records was questioned. The police report was admitted into evidence by the Defense at least twice. However the Defense requested To quash the subpoena of the Police Officer Gallagher, who investigated The scene of the accident and could speak to extent of damage to the vehicles and Ms. Hill's Transport via ambulance at the accident scene. He also saw Ms. Hill in the ER; thus seeing that she was injured and gave her his card. He also wrote the police report.

According to the law the officer as well as the police report was admissible secondary to the defense introducing the police report too.

"A party may have a right to object but lose that right by failure to make a timely objection or if it has previously opened the door by introducing evidence of a similarly improper character, since as a general rule, a party has already introduced evidence of the same nature, Saunders v. Commonwealth 211 VA. 399, 177 S.E. 2d 637 (1970). The Context is clear. Va. Code § 33.7 "waiver by failing to object or introducing the same evidence". The Defendant according to the police crash report and the Virginia Uniform Summons was at fault for the accident. She was Arrested at the scene of the accident and pleaded guilty according to the Virginia **Uniforms Summons.**

"A plea of guilty or nolo contendere to a crime is admissible in Evidence as an admission in a civil

case arising out of same facts. Va. Code Ann. 8.01-418. Plea or guilty or nolo Contendere to traffic infractions are admissible" That is the law but I was not afforded the rights to the application thereof.

" It should be noted however that admission of fact made during Settlement negotiations are admissible evidence , City of Richmond v. A.H. Ewing's Sons, Inc. 201 Va. 862, 114 S.E. 2d. 608 (1960)."

Matthew Gibellato, MD diagnosed plaintiff with a Traumatic Brain Injury and consulted Dr. Begali, the neuropsychologist Who did the TBI testing. Which was positive. In Means v. Gates 348 S.C. 161, 558 S.E. 2d 921 (ct. App. 2001). The trial court refused to admit testimony of plaintiff's neuropsychologist in a motor vehicle Accident case. On appeal the plaintiff contented the testimony was Needed to rebut defendant's implication "That his injuries were not As severe as he had alleged and were the result of malingering, The Appellate Court agreed and ordered a New Trial so that the Jury could Consider the Neuropsychologist's Testimony." Mrs. Poindexter stated, In the court room when the plaintiff pro se finished her closing Statement, "you did not have a head injury". She made the Statement in the Jury's presence. Petitioner stated, "you know I did, it's the point of injury". The trial court excluded all except one visual aid to help the Triers of fact comprehend the anatomical landmarks of the plaintiff's Complaints.

"A violator of a contract or tortfeasor is not allowed to escape All liability Simply because the

precise amount of damages is Uncertain. The degree of certainty of the proof is Dependent Upon the Nature of the case and the character of the damages; and the plaintiff is entitled to place before the jury the best evidence which the case permits, Sufficient to enable the jury to make such intelligent estimate of the damage as the circumstances of the case will Admit, Kiser v. Amalgamated Clothing Workers of America, 169. 574,194 S.E. 727, 114 A.L.R. 1291 (1938)."

II . A Review Is Warranted Because The Panel Did not Address the Violation of Rules of Evidence, Or the Pre-Trial Order of the Erroneous Poster

The Incomplete hearsay evidence that was not proven By the evidence thus was harmful error. The jury requested That poster during deliberation. Obstructing the Custodians of Records did not give the petitioner the right to fairly confront the poster, thus; the plaintiff had no way of confronting the poster because she was ordered at trial that she could not use any medical terms. The custodian of Records from John Randolph Physical Therapy Billing was at trial and could have given the Triers of fact Truthful information. The physical therapy billing alone would Have established the cost superseded $ 10,000, and the date of injury which was clearly documented in the medical notes. The only no reversible errors are the Permanent injuries evidence by the medical physician's diagnosis In the first year of traumatic brain injury, cervical spine osteophytes, rotator cuff injury, chronic Costochondritis in the 2nd, 3rd, 6, and 7th ribs (secondary to MVA), 4th rib fracture, and pectus

excavatum, lumbar sacral disc disease, Sacralitis, Left sided swelling, blurred vision, HA, facial contusions, implanted 5 th tooth which had cement and a screw inside it was knocked Loose in accident, thoracic deformities excluded unfairly which Were diagnosed during the first year of the accident and reflected In the medical records in chronological order.

III. JURY INSTRUCTIONS

Modified, bias and prejudicial jury instructions. The panel's opinion Is in direct conflict with Virginia Case Law applied in Armstead v. James 220 Va. 171, 173, 257 S. E. 2d. 767, 769 (1979) it states:

"THE COURT HELD IT IS ERROR NOT TO GIVE THE LANGUAGE IN SUBSECTION 4 IN THIS INSTRUCTION WHERE THE EVIDENCE WAS SUFFICIENT AS TO DEFORMITY, HUMILATION AND EMBARRASSMENT." See Va. Code 23:1 (4). The Panel's opinion is in direct conflict with this.

The Code **2:1 "Duty of Court"**

"It is Always the duty of the court at the proper time to instruct The Jury in All principles of law applicable to the pleadings and the Evidence". The panel received petitioner's refused Jury instructions in its entirety prior to their opinion.

The Virginia code §38:6

"Each party is entitled to instructions which presents the law relating to his or her theory of the case".

IV. JURY CONDUCT

The **Virginia** Code **§ 39:6** states:

"Where there is an unauthorized view only slight prejudice needs to be shown to warrant a new trial".

See The Virginia Code § 39:8 "What Jury May Take to Room".

" The jury has no right to take out and examine any Object or paper not admitted into evidence, **Brittle v. Commonwealth,** 222 V 518, 281 S.E. 2d. 889 (1981)".

The Jury Foreman with the black book in the deliberation room just happens to be the president of the Historic foundation of Petersburg, which is associated with businesses and the Petersburg Chamber of Commerce. Nationwide Mutual Insurance Company has businesses in the City of Petersburg. New information in the Progress Index Dated October 23, 2010 entitled Petersburg Chamber Chief Steps Down. The Current Petersburg Chamber of the Commerce Chairman of the Board is William V. Talley., **An Insurance Executive.** According to the history

"in 1967, a group of local preservationists, including the mayor of Petersburg, the president of the Fort Henry Branch Association for the preservation of Virginia antiquities and The vice president of the Petersburg Chamber of Commerce, formed The Petersburg Historic Foundation, a 501 (c) (3)".

V. ADDITURS

Additurs are commonly not considered like remittiturs, The Court's general reason is because a jury verdict is Sacrosanct. There was nothing sacrosanct about this Verdict. The most egregious breaches of case laws, statutes, and state and federal constitutional violations occurred. The jury was obstructed from hearing any of the medical facts, germane evidence, and experts. All of plaintiff's lay witnesses were not allowed to testify except for her Director of Nursing which was a moot point since the pro se petitioner's right to use any medical terms had been proscribed. There's no way to speak of the plaintiff's nursing occupation without using medical terms. Her occupation alone would have been a violation because she was a Bone Marrow Transplant Clinician II, Registered Nurse, that's five medical words right there. Thus, that would have been in the trial court, grounds for contempt of court charges for the petitioner. Thus, she did not risk calling her director.

The only other witness that would have been allowed to testify was the defendant's friend who was in the car with the defendant. The defendant was arrested at the scene of the accident per the police crash report **driving a type 3 Vehicle**. She pleaded guilty according to the Virginia Uniform Summons.

VI. **Relief Sought**

A. I would like to hear the opinions from the Experts, the United States Supreme Court Justices, explaining what, if any law, would Deny petitioner the right to freedom of protected speech, and

Justify proscribing the use of medical terms. Thus, penalizing petitioner, because; she had labored at the bedsides of her sick patients for 17 years, as a Registered Nurse. Petitioner would like to see a Denovo Review with this Court, or the Supreme Court of Virginia sitting Enbanc.

B. The Petitioner would like to see an open rebuke of the insurance companies. That would deter such egregious bad faith conduct. Thus, drawing a Line in the sand, to prevent injured person from falling prey to Billionaire Goliaths.

C. The Petitioner would like to see an ends to Justice that would fairly Compensate petitioner for the cruel and unusual punishment, she Has endured because she refused to compromise her advocacy Values that she was educated to uphold from her Nurse Practice Act. She is requesting Fair Compensatory Damages and the petitioner is still seeking her lost and future earnings, her medical expenses, her lost benefits. She is unable to work. She can Not stand longer than 10 minutes without having to lean or tolerate severe pain and discomfort. She bleeds into her chest wall, when she Sits in a chair to low, or move her arms or fingers repetitively. Prior To this accident, she has always worked, since she graduated in 1988.

The Petitioner's suit amount was for $ 1,550,000.00. The judgment was for $ 47,000.00. The petitioner is asking for the suit amount in Full, plus the six years and seven Months interest secondary to the abuses, Embarrassment, and humiliation they have caused her with their

Malicious Conduct.

Thus, fully comprehending the Courts stance in relation to Additurs, and **In relation to the jury verdicts**. This verdict was not sacrosanct. It Was sacrotaint secondary to the proscribing of rights that egregiously Affected the Amount of the Jury's damages awarded. It affected the Amount of the verdict. Thus, this was not a Fair **and Equal** jury trial. The Triers of fact were excluded from All medical evidence germane to this case, even medical authentic bills from the Custodian of Records who were at trial but ruled to be experts. How can a Jury determine the facts if all of the germane medical information is excluded. This case in the Petersburg Circuit Court online states: **Trial Judge with Witnesses.**

D. If the United States Supreme Court cannot hear this case I pray it consider Summary Reversal of the Supreme Court Of Virginia's Decision and remand the case back for Denovo Review with the Court sitting Enbanc with federal oversight.

Secondary to agreeing with
Justice William J. Brennan and I will quote:

"The Framers of the Bill of Rights Did not purport to "create" rights. Rather, they designed the Bill of Rights to prohibit our Government from infringing rights and liberties presumed to be pre-existing".

VII. CONCLUSION

In conclusions, I am just a novice at the law.

Who has learned, that America the Beautiful, has Great laws that protect persons like me. My liberty prior to One of the respondents running in the back of my stopped vehicle was waking up at 5:00 am and being at work by 7:00 am. From 7:00 am to 7:30 pm or thereafter long, of my choosing, being at the Bedside of my patients. Implementing the Optimal holistic care. That was my reasonable service. My motto was if I could help somebody as I practiced my duties than my living surely was not in vain. I also educated my patients in the Methods of advocating for their rights. For the last six Years, I have had to practice What I educated. So I would just like to Quote some Great Minds, on the foregoing Policies at Issue.

"I am not interested in picking up the Crumbs of compassion thrown from the table of someone who considers himself my master. I want the full menu of rights." ~**Bishop Desmund Tutu.**

"No man is above the law and no man is Below the law" ~ **Theodore Roosevelt.**

"The constitution requires that Congress treat similarly situated persons Similarly, not that it engages in gestures of superficial equality"

~ The Honorable Late
~JUSTICE WILLIAM H. REHNQUIST

"As long as judges tinker with the Constitution to do what the people want, instead of what the document actually commands, politicians, who pick and confirm federal judges, will naturally want only

those who agree with them politically."

~JUSTICE ANTONIN SCALIA

"Judges rule on the basis of law, not the Public opinion and they should be totally Indifferent to pressures of the times".

~JUSTICE WARREN E. BURGER

"Promoting active liberty does not mean Allowing the majority to run roughshod over minorities. It calls for taking special care that all groups have a chance to fully Participate in society and the political process."

~ JUSTICE RUTH BADER GINSBERG

The Legal Institution is Part of our Society.

"Every truth passes through three Stages before it is recognized. In the first, it is ridiculed, in the second it is opposed, in the third it is regarded as self evident."

~Arthur Schopenhauer

"It is my belief that there are "absolutes" In our Bills of Rights, and that they were put there on purpose by men who knew what the words meant and meant their Prohibitions to be "absolutes"

"Without deviation, without exception, without any if's, buts, or where ases, Freedom of speech

means that you shall Not do something to people either for views They express or words they speak or write."

~ JUSTICE HUGO L. BLACK

"Justice Alito as he noted a very clear First amendment Principle says that speech cannot be censored simply because Listeners are offended by it. Another first Amendment principle says that censoring Speech because of its content should signal Loud alarm bells".

~JUSTICE SAMUEL ALITO

SALUTATIONS

Lastly, I would like to thank the Honorable JUDGE PAMELA S. BASKERVILL. She gave petitioner the opportunity, despite the injuries that she had to be plaintiff, pro se. This may seem minute, however; **that was not the popular thing** For **ANY** judge to do. Corporate America Has strongholds in the State of Virginia. This Judge based on my opinion, had astronomical case loads and no law clerks, and minimal resources.

I would like to thank Dr. Vivian Begali who is an Expert in Traumatic Brain Injury. She educated me in relation to the specifics of the multi- system injuries suffered, and the pain management as well as appropriate Interventions, thereof; to achieve my optimal level of recovery.

I must give a Special thank you, to the Great

State of Washington which leads the Advocacy Education of Traumatic Brain Injuries from my Clinical Educational perspective, and Constance Miller in the Brain Injury Organization along with my Favorite Senator, of that Great State, **SENATOR PATTY MURRAY. She is Definitely known by RN'S as the Senator Who makes caring visible in this area. I would like to thank my RN colleagues.** Last, but not least, I would like to thank **God and my family,** for enabling me to endure a wrong suffered, and Persevere, especially carrying and supporting me through some difficult times.

Date: February 14, 2011

Respectfully Submitted,

Jewel D. Hill.

Jewel D.Hill.

Petitioner, Pro Se